

Grant Goldenberg

From: Grant Goldenberg
Sent: Friday, September 28, 2007 9:06 AM
To: 'jacobsr@hugheshubbard.com'
Cc: Jack Cobb; Bill Mayberry
Subject: BofA Subpoena Barclays

Russell,

During our recent conversation, I learned for the first time that Barclays Bank PLC and Barclays Capital Inc. ("Barclays") are taking the position that the subpoenas only apply to their New York offices. I have looked at Barclays Bank PLC and Barclays Capital Inc. information, and have determined that the London and Milan branches are in fact the same legal entities as Barclays' offices located in New York. Rule 45 of the Civil Rules of Procedure applies to documents in the possession, custody and control of a corporate entity (not just an office of the entity). Furthermore, Rule 45 reaches a corporation's international offices. Otherwise, a corporation could always avoid document productions by simply storing all documents or the most sensitive documents in a foreign nation. Additionally, the banking privacy laws, including those applicable in England, do not shield Barclays from having to respond to the subpoenas. Accordingly, Barclays should be producing responsive documents from all of its offices, including its international offices. If Barclays is going to continue taking the position that the subpoena only applies to a specific office, the New York office, rather than the corporate entities identified by the subpoenas, please let me know immediately and provide any and all rationales for such a position.

I look forward to hearing from you regarding this matter.

Best regards

Grant

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10/16/2007